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Agenda item 161

Review of the Statute of the United Nations Administrative Tribunal

Report of the Sixth Committee

Rapporteur: Mr. Joško **Klisović** (Croatia)

I. Introduction

1. The item entitled "Review of the Statute of the United Nations Administrative Tribunal" was included in the provisional agenda of the fifty-fourth session of the General Assembly in accordance with Assembly decision 53/430 of 8 December 1998.

2. At its 3rd plenary meeting, on 17 September 1999, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 29th and 35th meetings, on 11 and 18 November 1999. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/54/SR.29 and SR.35).

II. Consideration of proposals

A. Draft resolution A/C.6/54/L.13/Rev.1

4. At the 29th meeting, on 11 November, the representative of the United Kingdom of Great Britain and Northern Ireland, on behalf of France, Ireland and the United Kingdom, introduced a draft resolution entitled "Review of the Statute of the United Nations Administrative Tribunal" (A/C.6/54/L.13).

5. Following the Committee's consideration of draft resolution A/C.6/54/L.13, the sponsors of the draft resolution circulated a revised draft resolution, also entitled "Review

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of the Statute of the United Nations Administrative Tribunal" (A/C.6/54/L.13/Rev.1), which read:

"*The General Assembly*,

"*Recalling* that the United Nations Administrative Tribunal ('the Tribunal') and its members are this year celebrating the fiftieth anniversary of the Tribunal,

"*Acknowledging with gratitude* the important contribution which the Tribunal has made to the functioning of the United Nations system, and commending the members of the Tribunal on their valuable work,

"*Desiring* to enable the Tribunal to be as effective as possible in its future work,

"1. *Decides* to amend the Statute of the Tribunal ('the Statute'), with effect from 1 January 2000, as follows:

(a) Article 3, paragraph 1, shall be amended to read as follows:

'The Tribunal shall be composed of seven independent judges, no two of whom shall be nationals of the same State, who shall be persons of high moral character and who shall possess the qualifications required in their respective countries for appointment to high judicial office or be jurisconsults of recognized competence.';

(b) New paragraphs 2, 3 and 4 shall be inserted in place of article 3, paragraph 2, to read as follows:

'2. The members shall be appointed by the General Assembly for four years and may be reappointed once. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

'3. The members shall be independent in the performance of their functions. They shall not engage in any activity which is likely to interfere with their judicial functions or to affect confidence in their independence.

'4. (a) The President of the Tribunal may, at the request of a member, excuse that member from the exercise of a function under the present Statute.

(b) A member shall not participate in any case in which his impartiality might reasonably be doubted on any ground. Any question as to the disqualification of a member shall be decided by the Tribunal in accordance with its rules. The challenged member shall not take part in the decision.';

(c) Former paragraphs 3, 4, 5 and 6 shall be renumbered paragraphs 5, 6, 7 and 8 respectively;

(d) References in the Statute to 'Executive Secretary' shall be amended to read 'Registrar';

(e) Former paragraph 4 of article 3 shall be amended to read as follows:

'The Secretary-General shall provide the Tribunal with a Registrar who, in the exercise of duties under the present Statute, shall act impartially and shall be responsible to the Tribunal. The Secretary-General shall also provide the Tribunal with such other staff as may be considered necessary.';

(f) A new article 8 shall be inserted, to read as follows:

'A panel of three members of the Tribunal shall sit in any particular case, except that, where the panel considers that the case raises a significant question of law, it may, at any time before it renders its judgement, refer the case for consideration by the whole Tribunal. The quorum for a hearing by the whole Tribunal shall be five members.';

(g) Former article 8 and all subsequent articles of the Statute shall be renumbered accordingly;

(h) The pronouns 'he' and 'his', wherever they appear in the Statute, shall be amended to read 'he or she' and 'his or her' respectively;

(i) References in the Statute to 'five official languages' shall be amended to read 'six official languages';

"2. *Also decides* that all members serving on the Tribunal on 1 January 2000 shall have their current term of office extended by one year. Thereafter, provided that they have not served on the Tribunal for more than seven years, they shall be eligible for reappointment once if they meet the requirements set out in new article 3, paragraph 1;

"3. *Decides further* that the Statute, with effect from 1 January 2000, shall be worded as it appears in the annex to the present resolution."

6. The Committee took no action on revised draft resolution A/C.6/54/L.13/Rev.1.

B. Draft decision A/C.6/54/L.20

7. At the 35th meeting, on 18 November, the representative of the United Kingdom of Great Britain and Northern Ireland, on behalf of France, Ireland and the United Kingdom, introduced a draft decision entitled "Review of the Statute of the United Nations Administrative Tribunal" (A/C.6/54/L.20).

8. The representatives of Nigeria, Malaysia, Sierra Leone and Cuba made statements in explanation of position before the adoption of the draft decision (see A/C.6/54/SR.35).

9. At the same meeting, the Committee adopted draft decision A/C.6/54/L.20 without a vote (see para. 10).

III. Recommendation of the Sixth Committee

10. The Sixth Committee recommends to the General Assembly the adoption of the following draft decision:

Review of the Statute of the United Nations Administrative Tribunal

The General Assembly, recalling its decision 53/430 of 8 December 1998, desiring to review the provisions of the statute of the United Nations Administrative Tribunal, taking note of the draft resolution presented by the delegations of France, Ireland and the United

Kingdom of Great Britain and Northern Ireland,[1] and mindful of the comments made by States on the draft resolution at its fifty-fourth session, decides to include in the provisional agenda of its fifty-fifth session the item entitled "Review of the statute of the United Nations Administrative Tribunal".

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[1] A/C.6/54/L.13/Rev.1